

Internal Revenue Service

Department of the Treasury

District
Director

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

Gentlemen:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(7) of the Internal Revenue Code of 1954.

The information submitted discloses that you were organized as an association of property owners on [REDACTED] in the State of [REDACTED].

Although your governing instrument gives no stated purpose for which your organization was formed, you have indicated in your letter of [REDACTED] that the only activity in which your organization participates is the maintenance of all the common elements outside the walls of the apartments.

The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized for pleasure, recreation, and other similar non-profitable purposes and substantially all of its activities are for these purposes, but does not apply if any part of its net earnings inures to the benefit of any private shareholder.

Since you are organized and operated solely to perform the functions of a homeowners' association it is apparent that you are not organized for the purposes specified in section 501(c)(7) of the code.

Accordingly, we hold that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(7) of the code.

Consideration has been given as to whether your organization could qualify for exemptions by reason of being described in section 501(c)(4) of the code.

The Internal Revenue Service takes the position that in order for an organization to qualify for exemption from Federal income tax as a social welfare organization described in section 501(c)(4) of the Code, it must be primarily engaged in promoting in some way the common good and general welfare of the community as a whole.

The Income Tax Regulations section 1.501(c)(4)-1(a) states that a civic league or organization described in section 501(c)(4) may be exempt if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare. The Regulations describe social welfare activities as promoting in some way the common good and general welfare of the people of the community. An organization coming within the purview of this section is one which is operated exclusively for the purpose of bringing about civic betterments and social improvements.

Internal Revenue Ruling 74-17, Internal Revenue Bulletin 1974-1, page 130, provides that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of the project, as defined by State statute, with the membership assessments paid by the unit owners does not qualify under section 501(c)(4) of the Code. The services provided constitute private benefits not within the purview of section 501(c)(4) of the Code.

This ruling may be distinguished with Revenue Ruling 74-99 which provides that a homeowners' association, to qualify for exemption under section 501(c)(4) of the Code, (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residence, and (3) the common area or facilities it owns and maintains must be for the use and enjoyment of the general public.

Since you provide services to your membership, as described in Revenue Ruling 74-17, rather than serving in a similar capacity to a governmental unit, as described in Revenue Ruling 74-99, you do not qualify for exemption under section 501(c)(4) of the Code.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018. Please note the instructions for signing on the reverse side of this form.


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If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

Sincerely yours,

District Director

Enclosures:
Publication 892
Form 6018